

CHAPTER 191.

[ S. B. 316. ]

WASHINGTON AGRICULTURAL ENABLING ACT.

AN ACT relating to agriculture and agricultural production; defining terms; providing for the issuance, amendment and termination of marketing orders and agreements; providing for the creation of commodity commissions and prescribing powers and duties thereof; prescribing hearing, appeal, election and other procedures; levying assessments; providing for enforcement; and establishing penalties.

*Be it enacted by the Legislature of the State of Washington:*

Definitions:  
"Director."

SECTION 1. For the purposes of this act:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this act.

"Department."

(2) "Department" means the department of agriculture of the state of Washington.

"Marketing order."

(3) "Marketing order" means an order issued by the director pursuant to this act.

"Agricultural commodity."

(4) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product within its natural or processed state, including bees and honey but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this act.

"Producer."

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity.

"Affected producer."

(6) "Affected producer" means any producer of an affected commodity.

"Affected commodity."

(7) "Affected commodity" means any agricultural commodity for which the director has estab-

lished a list of producers pursuant to section 5 [6] of this act.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this act under a particular marketing order concerning an affected commodity. "Commodity commission" or "commission."

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured. "Unit."

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to titles 15, 16 and 69 RCW and chapters 9.16, 19.24, 19.76, 19.80, 19.84, 19.88, and 36.91 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U. S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels. "Unfair trade practice."

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals. "Person."

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U. S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis. "Cooperative association."

(13) "Member of a cooperative association" or

“Member of cooperative association” or “member.”

“member” means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product.

Purpose of act.

SEC. 2. The marketing of agricultural products within this state is affected with a public interest. It is declared to be the policy and purpose of this act to promote the general welfare of the state by enabling producers of agricultural commodities to help themselves in establishing orderly, fair, sound, efficient and unhampered marketing, grading and standardizing of the commodities they produce, and in promoting and increasing the sale of such commodities.

Marketing orders; authorized purposes.

SEC. 3. Marketing orders may be made for any one or more of the following purposes:

(1) To establish plans and conduct programs for advertising and sales promotion, to maintain present markets or to create new or larger markets for any agricultural commodity grown in the state of Washington;

(2) To provide for carrying on research studies to find more efficient methods of production, processing, handling and marketing of any agricultural commodity;

(3) To provide for improving standards and grades by defining, establishing and providing labeling requirements with respect to the same;

(4) To investigate and take necessary action to prevent unfair trade practices.

SEC. 4. Marketing orders and orders modifying or terminating existing marketing orders shall be promulgated by the director only after the director has done the following:

(1) Received a petition as provided for in section 5 of this act;

(2) Given notice of hearing as provided for in section 6 of this act;

(3) Conducted a hearing as provided for in section 7 of this act;

(4) Made findings and decision as provided for in section 8 of this act;

(5) Determined assent of affected producers as provided for in section 9 of this act.

SEC. 5. Petitions for issuance, amendment or termination of a marketing order shall be signed by not less than five percent or one hundred of the producers alleged to be affected, whichever is less, and shall be filed with the director. Such petition shall be accompanied by a filing fee of one hundred dollars payable to the state treasurer; and shall designate some person as attorney-in-fact for the purpose of this section. Upon receipt of such a petition, the director shall prepare a budget estimate for handling such petition which shall include the cost of the preparation of the estimate, the cost of the hearings and the cost of the proposed referendum. The petitioners, within thirty days after receipt of the budget estimate by their attorney-in-fact shall remit to the director the difference between the filing fee of one hundred dollars already paid and the total budget estimate. If the petitioners fail to remit the difference, or if for any other reason the proceedings for the issuance, amendment or termination of the marketing order are discontinued, the filing fee, including any additional amount paid in accordance with such budget estimates shall not be refunded. If the petition results, after proper proceedings, in the issuance, amendment, or termination of a marketing order, said petitioners shall be reimbursed for the amount paid for said total filing fee out of funds of the commodity commission as they become available.

Petition to issue, amend or terminate.

Filing fee.

Attorney-in-fact.

Budget estimate.

Payment of costs.

Reimbursement of petitioners.

Establishing or making current the produce list.

Notice to file report.

Reports.

Director's powers and duties.

List of producers is final and conclusive.

Notice of hearing.

SEC. 6. Upon receipt of a petition for the issuance, amendment, or termination of a marketing order, the director shall establish a list of producers of the agricultural commodity affected or make any such existing list current. In establishing or making current such a list of producers, the director shall publish a notice to producers of the commodity to be affected requiring them to file with the director a certified report showing the producer's name, mailing address, and the yearly average quantity of the affected commodity produced by him in the five years preceding the date of the notice or in such lesser time as the producer has produced the commodity in question. The notice shall be published once a week for four consecutive weeks in such newspaper or newspapers, including a newspaper or newspapers of general circulation within the affected areas, as the director may prescribe, and shall be mailed to all affected producers on record with the director. All reports shall be filed with the director within twenty days from the last date of publication of the notice or within thirty days after the mailing of the notice to affected producers, whichever is the later. The director shall keep such lists at all times as current as possible and may require information from affected producers at various times in accordance with rules and regulations prescribed by the director.

Such producer list shall be final and conclusive in making determinations relative to the assent by producers upon the issuance, amendment or termination of a marketing order and in elections under the provisions of this act.

The director shall then notify affected producers, so listed, by mail that the public hearing affording opportunity for them to be heard upon the proposed issuance, amendment, or termination of the marketing order will be heard at the time and place stated

in the notice. Such notice of the hearing shall be given not less than ten days nor more than sixty days prior to the hearing.

SEC. 7. At the public hearing the director shall receive evidence and testimony offered in support of, or opposition to, the proposed issuance of, amendment to, or termination of a marketing order and concerning the terms, conditions, scope, and area thereof. Such hearing shall be public and all testimony shall be received under oath. A full and complete record of all proceedings at such hearings shall be made and maintained on file in the office of the director, which file shall be open to public inspection. The director shall base his findings upon the testimony and evidence received at the hearing, together with any other relevant facts available to him from official publications of institutions of recognized standing. The director shall describe in his findings such official publications upon which any finding is based. Hearing.

For such hearings and for any other hearings under this act, the director shall have the power to subpoena witnesses and to issue subpoenas for the production of any books, records or documents of any kind. Subpoena power.

The superior court of the county in which any hearing or proceeding may be had may compel the attendance of witnesses and the production of records, papers, books, accounts, documents and testimony as required by such subpoena. The director, in case of the refusal of any witness to attest or testify or produce any papers required by the subpoena, shall report to the superior court of the county in which the proceeding is pending by petition setting forth that due notice has been given of the time and place of attendance of said witness or the production of said papers and that the witness has been summoned in the manner prescribed in Subpoena enforcement.

this act and that he has failed to attend or produce the papers required by the subpoena at the hearing, cause or proceeding specified in the subpoena, or has refused to answer questions propounded to him in the course of such hearing, cause or proceeding, and shall ask an order of the court to compel a witness to appear and testify before the director. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena. Copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued, it shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court.

**Findings and  
decision.**

SEC. 8. The director shall make and publish findings upon every material point controverted at the hearing and required by this act and upon such other matters and things as he may deem fitting and proper. He shall also issue a recommended decision based upon his findings and shall cause copies of the findings and recommended decision to be delivered or mailed to all parties of record appearing at the hearing, or their attorneys of record. The recommended decision shall contain the text in full of any order, or amendment or termination of existing order, and may deny or approve the proposal in its entirety, or it may recommend a marketing order containing other or different terms or conditions from those contained in the proposal: *Provided*, That the same shall be of a kind or type substantially within the purview of the notice of hearing and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice. The director shall not ap-

prove the issuance, amendment, or termination of any marketing order unless he shall find with respect thereto:

Conditions precedent to approval of order.

(1) That the proposed issuance, amendment or termination thereof is reasonably calculated to attain the objective sought in such marketing order;

(2) That the proposed issuance, amendment, or termination is in conformity with the provisions of this act and within the applicable limitations and restrictions set forth therein will tend to effectuate the declared purposes and policies of this act;

(3) That the interests of consumers of such commodity are protected in that the powers of this act are being exercised only to the extent necessary to attain such objectives.

After the issuance of a recommended decision all interested parties shall have a period of not less than ten days to file objections with the director. The director shall consider the objections and shall issue his final decision which may be the same as the recommended decision or may be revised in the light of said objections. The final decision shall set out in full the text of the order. The director shall deliver or mail copies of the final decision to the same parties to whom copies of the findings and recommended decision are required to be sent. If the final decision denies the proposal in its entirety, no further action shall be taken by the director.

Objections to decision.

Final decision.

SEC. 9. After the issuance by the director of the final decision approving the issuance, amendment, or termination of a marketing order, the director shall determine by a referendum whether the affected producers assent to the proposed action or not. The director shall conduct the referendum among the affected producers based on the list as provided for in section 6 of this act, and the affected producers shall be deemed to have assented to the proposed order if fifty-one percent or more by

Referendum.

number reply to the referendum within the time specified by the director, and if, of those replying, sixty-five percent or more by number and fifty-one percent or more by volume assent to the proposed order. The determination by volume shall be made on the basis of volume as determined in the list of affected producers created under provisions of section 6 of this act, subject to rules and regulations of the director for such determination. The director shall consider the approval or disapproval of any cooperative marketing association authorized by its producer members to act for them in any such referendum, as being the approval or disapproval of the producers who are members of or stockholders in or under contract with such association of cooperative producers: *Provided*, That the association shall first determine that a majority of the membership of the association authorize its action concerning the specific marketing order. If the requisite assent is given, the director shall promulgate the order and shall mail notices of the same to all affected producers.

**Requisites  
of order.**

SEC. 10. A marketing order shall define the area of the state to be covered by the order which may be all or any portion of the state; shall contain provisions for establishment of a commodity commission and administration and operation and powers and duties of same; shall provide for assessments as provided for in this act and shall contain one or more of the provisions as set forth in section 3 of this act. The order may provide that its provisions covering standards, grades, labels and trade practices apply with respect to the affected commodity marketed or sold within such area regardless of where produced. A marketing order may provide that one commodity commission may administer marketing orders for two or more affected commodities, if approved by a majority, as provided in this act for the

creation of a marketing order, of the affected producers of each affected commodity concerned.

SEC. 11. Every marketing order shall establish a commodity commission composed of not less than five nor more than thirteen members. In addition, the director shall be an ex officio member of each commodity commission. Commission members shall be citizens and residents of this state, over the age of twenty-five years. The term of office of commission members shall be three years with the terms rotating so that one-third of the terms will commence as nearly as practicable each year. However, the first commission shall be selected, one-third for a term of one year, one-third for a term of two years, and one-third for a term of three years, as nearly as practicable. Two-thirds of the commission members shall be elected by the affected producers and such elected members shall all be affected producers. The remaining one-third shall be appointed by the commission and shall be either affected producers, others active in matters relating to the affected commodity or persons not so related.

Commodity  
commission.

SEC. 12. Not less than ninety days nor more than one hundred and five days prior to the beginning of each term of each elected commission member, the director shall give notice by mail to all affected producers of the vacancy and call for nominations in accordance with this section and with the provisions of the marketing order and shall give notice of the final date for filing nominations, which shall not be less than eighty days nor more than eighty-five days before the beginning of such term. Such notice shall also advise that nominating petitions shall be signed by five persons qualified to vote for such candidates or, if the number of nominating signers is provided for in the marketing order, such number as such order provides.

Vacancies in  
commodity  
commission.

Not less than sixty days nor more than seventy-five days prior to the commencement of such commission member term, the director shall submit by mail ballots to all affected producers, which ballots shall be required to be returned to the director not less than thirty days prior to the commencement of such term. Such mail ballot shall be conducted in a manner so that it shall be a secret ballot. With respect to the first commission for a particular commodity, the director may call for nominations in the notice of his decision following the hearing and the ballot may be submitted at the time the director's proposed order is submitted to the affected producers for their assent.

Said elected members may be elected from various districts within the area covered by the marketing order if the order so provides, with the number of members from each district to be in accordance with the provisions of the marketing order.

The members of the commission not elected by the affected producers shall be elected by a majority of the commission at a meeting of the commission within ninety days prior to expiration of the term but to fill nonelective vacancies caused by other reasons than the expiration of a term, the new member shall be elected by the commission at its first meeting after the occurrence of the vacancy.

Meetings of commodity commission.

SEC. 13. Each commodity commission shall hold such regular meetings as the marketing order may prescribe or that the commission, by resolution may prescribe, together with such special meetings that may be called in accordance with provisions of its resolutions upon reasonable notice to all members thereof. A majority of the members shall constitute a quorum for the transaction of all business of the commission.

Quorum.

Compensation of members.

No member of the commission shall receive any salary or other compensation from the commission

except that each member shall receive a specified sum as provided in the marketing order not in excess of twenty dollars per day for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and traveling expense at the rate allowed by law to state employees.

SEC. 14. Every marketing commission shall have such powers and duties in accordance with provisions of this act as may be provided in the marketing order and shall have the following powers and duties:

Powers and  
duties of  
marketing  
commission.

(1) To elect a chairman and such other officers as determined advisable;

(2) To adopt, rescind and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;

(3) To administer, enforce, direct and control the provisions of the marketing order and of this act relating thereto;

(4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(5) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this act and of the marketing order;

(7) To keep accurate records of all its receipts and disbursements, which records shall be open to

inspection and audit by legal agencies of the state and make annual reports therefrom to the state auditor;

(8) Borrow money and incur indebtedness;

(9) Make necessary disbursements for routine operating expenses;

(10) Such other powers and duties that are necessary to carry out the purposes of this act.

Annual  
assessments.

SEC. 15. There is hereby levied, and there shall be collected by each commission, upon each and every unit of any agricultural commodity specified in any marketing order an annual assessment which shall be paid by the producer thereof upon each and every such unit sold, processed, stored or delivered for sale, processing or storage by him. Such assessments shall be expressed as a stated amount of money per unit. The total amount of such annual assessment to be paid by all affected producers of such commodity shall not exceed:

(1) In the case of wheat, one-eighth cent per bushel;

(2) In the case of all other commodities, three percent of the total market value of all affected units sold, processed, stored or delivered for sale, processing or storage by all affected producers of such units during the year to which the assessment applies.

Every marketing order shall prescribe the per unit rate of such assessment. Such rate may be at the full amount of, or at any lesser amount than the amount hereinabove limited and may be altered from time to time by amendment of such order. In every such marketing order and amendment the determination of such rate shall be based upon the volume and price of sales of affected units during a period which the director determines to be a representative period. The per unit rate of assessment prescribed in any such order or amendment shall for all purposes and times be deemed to be within the

limits of assessment above provided until such time as such order is amended as to such rate. However, at the end of any year, any affected producer may obtain a refund from the commission of any assessment payments made which exceed three percent of the total market value of all of the affected commodity sold, processed, stored or delivered for sale, processing or storage by such producer during the year. Such refund shall be made only upon satisfactory proof given by such producer in accordance with reasonable rules and regulations prescribed by the director. Such market value shall be based upon the average sales price received by such producer during the year from all his bona fide sales or, if such producer did not sell twenty-five percent or more of all of the affected commodity produced by him during the year, such market value shall be determined by the director upon other sales of the affected commodity determined by the director to be representative and comparable. No assessment or rate or amendment thereof shall apply in any order unless and until confirmed by a majority of affected producers participating in a vote taken in the manner by this act providing for the election of commission members.

To collect such assessment each order may require:

(1) Stamps to be purchased from the affected commodity commission or other authority stated in such order and attached to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets (said stamps to be cancelled immediately upon being attached and the date of cancellation placed thereon).

(2) Payment of producer assessments before the affected units are shipped off the farm or payment of assessments at different or later times, and in such event the order may require any person subject to

the assessment to give adequate assurance or security for its payment.

(3) Every affected producer subject to assessment under such order to deposit with the commission in advance an amount based on the estimated number of affected units upon which such person will be subject to such assessment in any one year during which such marketing order is in force, or upon any other basis which the director determines to be reasonable and equitable and specifies in such order, but in no event shall such deposit exceed twenty-five percent of the estimated total annual assessment payable by such person. At the close of such marketing year the sums so deposited shall be adjusted to the total of such assessments payable by such person.

(4) Require handlers receiving the affected commodity from the producer, including warehousemen and processors, to collect producer assessments from producers whose production they handle and remit the same to the affected commission. The lending agency for a commodity credit corporation loan to producers shall be deemed a handler for the purpose of this subsection. No affected units shall be transported, carried, shipped, sold, stored or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued, but no liability hereunder shall attach to common carriers in the regular course of their business.

Disposition of  
assessment  
proceeds.

SEC. 16. Moneys collected by any commodity commission pursuant to any marketing order from any assessment for marketing purposes or as an advance deposit thereon shall be used by the commission only for the purpose of paying for the costs or expenses arising in connection with carrying out the purposes and provisions of such agreement or order.

Upon the termination of any marketing order any and all moneys remaining with the commodity commission operating under that marketing order and not required to defray expenses or repay obligations incurred by that commission shall be returned to the affected producers in proportion to the assessments paid by each in the two year period preceding the date of the termination order.

SEC. 17. Any due and payable assessment herein levied, and every sum due under any marketing order in a specified amount shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the commission when payment is called for by the commission. In the event any person fails to pay the full amount of such assessment or such other sum on or before the date due, the commission may add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the commission may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

Assessment is personal debt.

Penalty for late payment.

Action to collect assessment.

SEC. 18. All moneys which are collected or otherwise received pursuant to each marketing order created under this act shall be used solely by and for the commodity commission concerned and shall not be used for any other commission nor the department. Such moneys shall be deposited in a separate account or accounts in the name of the individual commission in any bank which is a state depository. All expenses and disbursements incurred and made

Disposition of all moneys received.

pursuant to the provisions of any marketing order shall be paid from moneys collected and received pursuant to such order without the necessity of a specific legislative appropriation and all moneys deposited for the account of any order shall be paid from said account by check or voucher in such form and in such manner and upon the signature of such person as may be prescribed by the commission. None of the provisions of RCW 43.01.050 shall be applicable to any such account or any moneys so received, collected or expended.

**Official bonds.** SEC. 19. Every administrator, employee or other person occupying a position of trust under any marketing order and every member actually handling or drawing upon funds shall give a bond in such penal amount as may be required by the affected commission or by the order, the premium for which bond or bonds shall be paid by the commission.

**Modification of marketing order; petition.** SEC. 20. An affected producer subject to a marketing order may file a written petition with the director stating that the order, agreement or program or any part thereof is not in accordance with the law, and requesting a modification thereof or exemption therefrom. He shall thereupon be given a hearing, which hearing shall be conducted in the manner provided by section 7, and thereafter the director shall make its [his] ruling which shall be final.

**Hearing.**

**Appeals.** Appeal from any ruling of the director may be taken to the superior court of the county in which the petitioner resides or has his principal place of business, by serving upon the director a copy of the notice of appeal and complaint within twenty days from the date of entry of the ruling. Upon such application the court may proceed in accordance with RCW 7.16.010 through 7.16.140. If the court determines that the ruling is not in accordance with law, it shall remand the proceedings to the director with directions to make such ruling as the court deter-

mines to be in accordance with law or to take such further proceedings as in its opinion are required by this chapter.

SEC. 21. It shall be a misdemeanor for:

Penalties:

(1) Any person wilfully to violate any provision of this act or any provision of any marketing order duly issued by the director pursuant to this act.

Violations of act or order.

(2) Any person wilfully to render or furnish a false or fraudulent report, statement of record required by the director or any commission pursuant to the provisions of this act or any provision of any marketing order duly issued by the director pursuant to this act or wilfully to fail or refuse to furnish or render any such report, statement or record so required.

False reports, etc.

Failure to furnish reports, etc.

In the event of violation or threatened violation of any provision of this act or of any marketing order duly issued or entered into pursuant to this act, the director, the affected commission, or any affected producer on joining the affected commission, shall be entitled to an injunction to prevent further violation and to a decree of specific performance of such order, and to a temporary restraining order and injunction pending litigation upon filing a verified complaint and sufficient bond.

Threatened violations of act or order.

All persons subject to any order shall severally from time to time, upon the request of the director, furnish him with such information as he finds to be necessary to enable him to effectuate the policies of this act and the purposes of such order or to ascertain and determine the extent to which such order has been carried out or has effectuated such policies and purposes, or to determine whether or not there has been any abuse of the privilege of exemptions from laws relating to trusts, monopolies and restraints of trade. Such information shall be furnished in accordance with forms and reports to

Furnishing of information at director's request.

Powers of director relative to request for information.

be prescribed by the director. For the purpose of ascertaining the correctness of any report made to the director pursuant to this section or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, the director is authorized to examine such books, papers, records, copies of tax reports, accounts, correspondence, contracts, documents or memoranda as he deems relevant and which are within the control of any such person from whom such report was requested, or of any person having, either directly or indirectly, actual or legal control of or over such person or such records, or of any subsidiary of any such person. To carry out the purposes of this section the director, upon giving due notice, may hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of books, records, documents or other writings of any kind, and section 7 shall apply with respect to any such hearing, together with such other regulations consistent therewith as the director may from time to time prescribe.

Compliance with act is complete defense.

SEC. 22. In any civil or criminal action or proceeding for violation of any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this chapter or a marketing order issued under this chapter, and in furtherance of the purposes and provisions of this chapter, shall be a complete defense to such action or proceeding.

Liability and enforcement of obligations of commission.

SEC. 23. Obligations incurred by any commission and any other liabilities or claims against the commission shall be enforced only against the assets of such commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality

thereof or against any other commission established pursuant to this act or the assets thereof or against any member officer, employee or agent of the board in his individual capacity. The members of any such commission, including employees of such board, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of any such commission. The liability of the members of such commission shall be several and not joint and no member shall be liable for the default of any other member.

Liability of members and employees of commission.

SEC. 24. Marketing agreements shall be created upon written application filed with the director by not less than five commercial producers of an agricultural commodity and upon approval of the director. The director shall hold a public hearing upon such application. Not less than five days prior thereto he shall give written notice thereof to all producers whom he determines may be proper parties to such agreement and shall publish such notice at least once in a newspaper of general circulation in the affected area. The director shall approve an agreement so applied for only if he shall find:

Marketing agreements; application.

Hearing.

Notice of hearing.

Conditions precedent to approval.

(1) That no other agreement or order is in force for the same commodity in the same area or any part thereof;

(2) That such agreement will tend to effectuate its purposes and the declared policies of this act and conforms to law;

(3) That enough persons who produce a sufficient amount of the affected commodity to tend to effectuate said policies and purposes and to provide

sufficient moneys to defray the necessary expenses of formulation, issuance, administration and enforcement have agreed in writing to said agreement.

Authorized purposes.

Powers and duties of commission.

Persons subject to agreement.

Effective date of agreement.

Additional signatories. Withdrawal of signatories.

Amendment.

Termination.

Withdrawal of cooperative association.

Such agreement may be for any of the purposes and may contain any of the provisions that a marketing order may contain under the provisions of this act but no other purposes and provisions. A commodity commission created by such agreement shall in all respects have all powers and duties as a commodity commission created by a marketing order. Such agreement shall be binding upon, and only upon, persons who have signed the agreement: *Provided*, That a cooperative association may, in behalf of its members, execute any and all marketing agreements authorized hereunder, and upon so doing, such agreement so executed shall be binding upon said cooperative association and its members. Such agreements shall go into force when the director endorses his approval in writing upon the agreement and so notifies all who have signed the agreement. Additional signatories may be added at any time with the approval of the director. Every agreement shall remain in force and be binding upon all persons so agreeing for the period specified in such agreement but the agreement shall provide a time at least once in every twelve months when any or all such persons may withdraw upon giving notice as provided in the agreement. Such an agreement may be amended or terminated in the same manner as herein provided for its creation and may also be terminated whenever after the withdrawal of any signatory the director finds on the basis of evidence presented at such hearing that not enough persons remain signatory to such agreement to effectuate the purposes of the agreement or the policies of the act or to provide sufficient moneys to defray necessary expenses. However, in the event that a cooperative association is signatory to the marketing agreement in

behalf of its members, the action of the cooperative association shall be considered the action of its members for the purpose of determining withdrawal or termination.

SEC. 25. Nothing contained in this act shall permit fixing of prices not otherwise permitted by law or any limitation on production and no marketing order or agreement or any rule or regulation thereunder shall contain any such provisions.

Price fixing  
and limiting of  
production  
prohibited.

SEC. 26. All general administrative expenses of the director in carrying out the provisions of this act shall be borne by the state.

Administra-  
tive expenses.

SEC. 27. Nothing in this act contained shall apply to:

Exemptions  
from act.

(1) Any order, rule, or regulation issued or issuable by the Washington public service commission or the interstate commerce commission with respect to the operation of common carriers;

(2) Any provision of the statutes of the state of Washington relating to the apple advertising commission (RCW 15.24.010-210 inclusive), to the soft tree fruits commission (RCW 15.28.010-310 inclusive) or to dairy products commission (RCW 15.44.010-180 inclusive). No marketing agreement or order shall be issued with respect to apples, soft tree fruits or dairy products for the purposes specified in subsections 3(1) or 3(2) of this act.

SEC. 28. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Severability.

Short title.

SEC. 29. This act shall be known and may be cited as the "Washington Agricultural Enabling Act".

Passed the Senate March 3, 1955.

Passed the House March 2, 1955.

Approved by the Governor March 16, 1955.

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CHAPTER 192.

[ S. B. 22. ]

BASIC SCIENCE LAW.

AN ACT relating to the qualifications of applicants to practice the healing arts and providing for examinations therefor, also to be known as the Basic Science Law; amending sections 1, 2, 3, 4, and 8, chapter 183, Laws of 1927, and RCW 43.74.010 through 43.74.040 and 43.74.080; adding new sections to chapter 43.74, RCW; repealing section 7, chapter 183, Laws of 1927 and RCW 43.74.070; and prescribing penalties.

*Be it enacted by the Legislature of the State of Washington:*

New section.

SECTION 1. There is added to chapter 43.74, RCW, a new section to read as follows:

Short title.

This chapter shall be known as the Basic Science Law.

New section.

SEC. 2. There is added to chapter 43.74, RCW, a new section to read as follows:

Definitions.

Terms used in this chapter shall have the following meaning:

"Basic sciences" are anatomy, physiology, chemistry, pathology, bacteriology, and hygiene.

"Healing art" is any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, prevention, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.